

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT

Attorney Docket No.: 020366-077410

Assistant Commissioner for Patents
U. S. Patent and Trademark Office
Washington, D.C. 20231

On 11/10/02

TOWNSEND and TOWNSEND and CREW LLP

By: Don Mixon

Don Mixon

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Richard Cerami, et al.

Application No.: 09/921,294

Filed: August 1, 2001

For: PERFORMANCE MODELING IN
A VDSL NETWORK

Examiner: Unassigned

Art Unit: 2151

PETITION UNDER 37 C.F.R. §1.47(a)

Assistant Commissioner for Patents
U. S. Patent and Trademark Office
Washington, D.C. 20231

Dear Sir:

Applicants respectfully petition for filing under 1.47(a) for the above-referenced case. Signed Declarations and Assignments are being filed from two of the three joint inventors for this case. The second inventor, Mr. Timothy Figueroa, could not be reached after diligent efforts. The Declarations of Brian N. Young and Chad Hilyard which include proof of the pertinent facts and the last known address of the non-signing inventor, are provided herewith in support of this Petition.

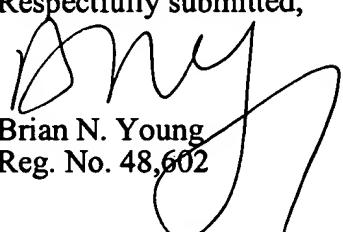
This application is made by the other two inventors on behalf of the non-signing inventor, Mr. Timothy Figueroa. The commissioner is authorized to charge the fee set forth in 37 CFR § 1.17(i) (\$130.00) to the undersigned's Deposit Account No. 20-1430.

Richard Cerami, et al.
Application No.: 09/921,294
Page 2

PATENT

Please charge any additional fees or credit overpayment to the above deposit account. This petition is submitted in triplicate.

Respectfully submitted,


Brian N. Young
Reg. No. 48,602

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300

BNY/dxm

SF 1306454 v1



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#5
PATENT

Attorney Docket No.:20366-077410US

Assistant Commissioner for Patents
Washington, D.C. 20231

On 1/10/02

TOWNSEND and TOWNSEND and CREW LLP

By: Don Mire

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Richard Cerami, et al.

Application No.: 09/921,294

Filed: August 1, 2001

For: PERFORMANCE MODELING IN
A VDSL NETWORK

Examiner: Unassigned

Art Unit: 2151

**DECLARATION OF CHAD S. HILYARD
IN SUPPORT OF PETITION UNDER 37
C.F.R. §1.47(a)**

RECEIVED

MAR 1 8 2002

OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

I, Chad S. Hilyard, am an attorney at Townsend and Townsend and Crew LLP, representing Qwest Communications International Inc. ("Qwest") in the above-referenced patent application along with Brian N. Young ("Brian"). In addition to Brian's efforts, I also have made diligent efforts to contact Mr. Timothy Figueroa, an inventor for the above-referenced case and previously an employee of Qwest.

On or about November 6, 2001, Brian contacted me and asked me to call Mr. Figueroa, because he had not responded to Brian's letter requesting him to review the patent application and execute the declaration and assignment documents.

Between about November 10, 2001 and December 10, 2001, I called Mr. Figueroa at his work phone number (720-535-7700) at least four times and spoke to him at least three times. The first two times I spoke with Mr. Figueroa, he was very evasive. Specifically, he was hesitant to talk to me, but indicated that he had the declaration and assignment documents

at home, and requested that I call him back in a couple of days, which I did. On December 10, 2001, the last time I spoke with Mr. Figueroa, he indicated that he would not sign and return the declaration and assignment documents. Then, he hung-up on me.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent application or any patent resulting therefrom, declare that I am authorized to execute this instrument on behalf of applicants; all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

Date: 1/9/2002



Chad S. Hilyard

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300

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MAR 1 8 2002

OFFICE OF PETITIONS

SF 1306452 v1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT
Attorney Docket No.: 20366-077410US

Assistant Commissioner for Patents
Washington, D.C. 20231

On 11/10/02

TOWNSEND and TOWNSEND and CREW LLP

By: Don Mio

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Richard Cerami, et al.

Application No.: 09/921,294

Filed: August 1, 2001

For: PERFORMANCE MODELING IN
A VDSL NETWORK

Examiner: Unassigned

Art Unit: 2151

**DECLARATION OF BRIAN N. YOUNG
IN SUPPORT OF PETITION UNDER 37
C.F.R. §1.47(a)**

Assistant Commissioner for Patents
Washington, D.C. 20231

I, Brian N. Young, am an attorney at Townsend and Townsend and Crew LLP, representing Qwest Communications International Inc. ("Qwest") in the above-referenced patent application. I have made diligent efforts to contact Mr. Timothy Figueroa, an inventor for the above-referenced case and previously an employee of Qwest.

On August 1, 2001, the above-referenced patent application was filed by Qwest with missing parts. On September 10, 2001, a Notice to File Missing Parts from the U.S. Patent Office was mailed to our office.

Therefore, I prepared the declaration and assignment documents for the above-referenced patent application and forwarded them to all the inventors (including Mr. Timothy Figueroa), along with the patent application as filed and a cover letter instructing them to review the application and execute the documents on September 27, 2001. A copy of the cover letter is attached as **Exhibit A**, the cover letter shows Mr. Figueroa's last known address,

which is 15231 East Hialeah Place, Aurora, Colorado 80015. A reminder was mailed by Federal Express November 1, 2001. A copy of the Federal Express label receipt is attached hereto as **Exhibit B**.

The Federal Express Package was signed by L. Figueroa on November 2, 2001, we believe Mr. Figueroa received the documents as shown in the declaration of Chad Hilyard, Mr. Figueroa was contacted at the address and has not signed the declaration and assignment documents.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent application or any patent resulting therefrom, declare that I am authorized to execute this instrument on behalf of applicants; all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

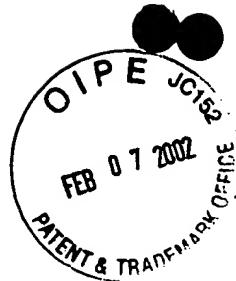
Date:

1/10/02

~~Brian N. Young~~

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300

TOWNSEND
and
TOWNSEND
and
CREW
LLP



Denver, Colorado
Tel 303 571-4000
Palo Alto, California
Tel 650 326-2400
Seattle, Washington
Tel 206 467-9600
Walnut Creek, California
Tel 925 472-5000

San Francisco
Two Embarcadero Center
8th Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300
Direct: 415-273-7512
bnyoung@townsend.com

September 26, 2001

VIA FEDEX

Richard S. Cerami
1475 Lawrence Street, #400
Denver, CO 80202

Timothy Figueroa
15231 East Hialeah Place
Aurora, CO 80015

Roxanna Storaasli
1475 Lawrence Street, 4th Floor
Denver, CO 80202

REMINDER *sent 11/01/01*

Re: US Patent Application No. 09/921,294
For: PERFORMANCE MODELING IN A VDSL NETWORK
Inventors: Richard S. Cerami, Timothy Figueroa, Roxanna Storaasli
Filed: August 1, 2001
Our File No.: 020366-077410US

Dear Sirs/Madam:

Enclosed with each letter to the above-referenced inventors is a copy of the subject patent application as filed with the U.S. Patent and Trademark Office on August 1, 2001. All information concerning this application should be kept confidential.

Because this application was filed without a signed Declaration, it is now required that we file the following executed documents with the U.S. Patent Office to complete the filing formalities.

- (1) Declaration to be signed and dated by each inventor.
- (2) Assignment to also be signed and dated by each inventor. Please note that the Assignment should be signed before a notary. On the first page of the Assignment, include the date the Declaration is/was executed.

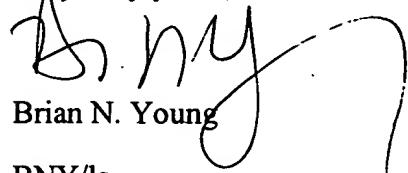
Once the above documents have been executed, please return all of them to us so that we can file them with the U.S. Patent and Trademark Office. The deadline for filing the formal documents with the USPTO is November 10, 2001.

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Richard S. Cerami, et al.
September 26, 2001
Page 2

If you have any questions about the completion of these documents, please do not hesitate to contact me at the above telephone number or email address.

Very truly yours,



Brian N. Young

BNY/ls
Enclosures (3)
SF 1273956 v1



Federal Express COSMOS Tracking System

DATE: 11/02/01

Tracking #: 475345085436

Service Type: PG

Activity	City	St	Date	Time
Delivered	ENGLEWOOD	CO	11/02	09:55
Placed on Van	ENGLEWOOD	CO	11/02	08:13
Arrived at FedEx Dest Loc	ENGLEWOOD	CO	11/02	07:46
Left FedEx Ramp	DENVER	CO	11/02	06:41
Arrived at FedEx Ramp	DENVER	CO	11/02	05:41
Pkg Left FedEx Sort Facility	OAKLAND	CA	11/02	04:13
Arrived at Sont Facility	OAKLAND	CA	11/01	21:29
Left FedEx Origin Location	SAN FRANCISCO	CA	11/01	19:32
Pickup Exception	SAN FRANCISCO	CA	11/01	15:43

Stat Exception: Pre-routed meter pkg picked up

Delivered to.: Residential

Delivery time.: 09:55

Signed for by.: *L.FIGUEROA

Delivery Address: 15231 E HIALEAH PL